

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

HOWARD WAYNE HUNT, #361657,

Plaintiff,

v.

JOHN DOES,

Defendants.

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No. **3:09-CV-0425-L**

ORDER

Before the court are the Findings, Conclusions and Recommendations of the United States Magistrate Judge, filed March 13, 2009. Plaintiff filed objections on March 27, 2009.

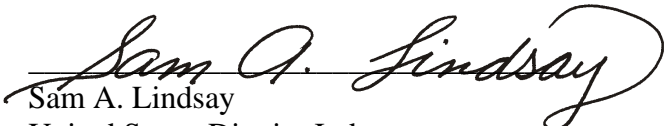
Plaintiff is proceeding *pro se* and *in forma pauperis*. He has asserted claims against unnamed Defendants, past, present, and future executive directors of Texas Department of Criminal Justice, members of the Board of Pardons and Paroles, members of the Texas Legislature, and governors of the state of Texas for alleged civil rights violations pursuant to 42 U.S.C. § 1983. The magistrate judge recommends dismissing the action as frivolous pursuant to 28 U.S.C. §§ 1915A(b)(1) and 1915(e)(2)(B)(i) because Plaintiff's claims are time-barred.

Plaintiff filed objections, but rather than objecting to the magistrate judge's findings and recommendations, he seeks leave to amend his complaint and to transform this action into one seeking declaratory judgment, citing *Preiser v. Rodriguez*, 411 U.S. 475 (1973). He contends that he is entitled to a declaratory judgment as a predicate to a damages award. Plaintiff also files objections relating to habeas corpus petitions. The court **overrules** Plaintiff's objections. If Plaintiff abandons his civil rights claim, he is not entitled to a declaratory judgment because the Declaratory Judgment Act does not create an independent cause of action. *Bauhaus USA, Inc. v. Copeland*, 292 F.3d 439, 447-48 (5th Cir. 2002). Thus, if Plaintiff's section 1983 claim is time-barred, he is not entitled to any declaratory relief based

upon that claim. Plaintiff's other arguments that reference section 1983 claims and habeas corpus relief are not relevant, because none addresses claims barred by the statute of limitations and because Plaintiff's claims are not brought as writs of habeas corpus. The court has not held that Plaintiff is not entitled to bring a section 1983 claim, just that these particular claims are barred by the statute of limitations.

Having reviewed the pleadings, file, and record in this case, and the findings and conclusions of the magistrate judge, the court determines that the findings and conclusions are correct. The magistrate judge's findings and conclusions are therefore **accepted** as those of the court. The court therefore **dismisses with prejudice** Plaintiff's complaint as frivolous pursuant to 28 U.S.C. §§ 1915A(b)(1) and 1915(e)(2)(B)(i).

It is so ordered this 30th day of March, 2009.


Sam A. Lindsay
United States District Judge